

AMENDMENTS TO THE DRAWINGS:

Please replace drawing sheets 1/8, 4/8 and 5/8 containing Figures 1, 4, and 5 with the attached replacement sheets.

REMARKS

Entry of the foregoing, reexamination and further and favorable reconsideration of the subject application in the light of the following remarks, pursuant to and consistent with 37 C.F.R. § 1.112, are respectfully requested.

Claims 1-39 are pending in the application. Claims 1-16 and 25-39 have been withdrawn from consideration. Claims 17-24 have been examined and stand rejected.

By the current amendment, claims 7-16 and 25-38 have been canceled without prejudice or disclaimer of the subject-matter contained therein. Claim 17 has been amended to replace the term "variant thereof" by "an amino acid sequence." Claim 18 has been amended to delete the part of the claim directed to non-elected subject matter. Claim 24 has been amended to recite that the seeds comprise the claimed chimeric genes.

Withdrawn claims 1, 2 and 39 have been amended to delete non-elected subject matter and incorporate all limitations of product claims 17-24 as appropriate.

Replacement sheets containing Figures 1, 4, and 5 are attached in which the lettering has been rendered in a larger font.

No new matter has been introduced by way of the above amendments. Applicants reserve their right to file a continuation or divisional application on subject matter canceled by way of this amendment.

Drawings

The Figures have been objected to because the alignments comprise text that is illegible, too small and is a copy of a copy.

Replacement sheets are attached hereto comprising original prints of the drawings wherein the text have been rendered in a larger font. The replacement sheets do not contain new matter.

Claim objections

Claim 18 has been objected to because this claim as directed in part to a non-elected invention. Claim 18 has been amended to delete recitation of non-elected subject matter. Withdrawal of the objection is requested.

Claim rejections – 35 USC § 112, second paragraph

Claims 17-24 stand rejected under 35 U.S.C. 112, second paragraph, for allegedly being indefinite. According to the Examiner, the recitation in claim 17 of “variant” is indefinite. Claim 17 has been amended to recite “an amino acid sequence having 95% sequence identity.” A person of ordinary skill in the art would appreciate the metes and bounds of claim 17. Accordingly, withdrawal of the rejection is requested.

Claim rejections – 35 USC§101, second paragraph

Claim 24 has been rejected under 35 U.S.C. § 101, for allegedly encompassing non-statutory subject matter, e.g. untransformed plant and seed. Claim 24 has been amended to recite that the seeds comprise the chimeric genes according to claim 17. Accordingly, withdrawal of the rejection is requested.

Request for rejoinder of process claims 1 to 6 and 39.

The restriction requirement of July 28, 2006 indicated that claims of Inventions I (claims 1 to 6) and V (claim 39) are related to the claims of elected Invention III (claims 17-24) as product and process of use. Claims 17 to 24 are believed to be allowable for the reasons set forth above.

Process claims 1 to 6 and 39, which were withdrawn from consideration, have been amended to include all the limitations of the allowable product claims. Accordingly, as set forth in Manual of Patent Examination Procedure § 821.04(b) Applicant requests that the restriction between withdrawn process claims 1 to 6 and 39 and product claims 17 to 24 is withdrawn and the process claims are fully examined for patentability in accordance with 37 CFR § 1.104.

CONCLUSION

In view of the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order. Such action is earnestly solicited.

In the event that there are any questions relating to this application, it would be appreciated if the Examiner would telephone the undersigned concerning such questions so that prosecution of this application may be expedited.

The Director is hereby authorized to charge any appropriate fees that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: February 28, 2007

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Enclosure: 3 sheets replacement drawings